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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,974	03/22/2004	Peter T. O'Hecron	122182.0025.000	1359

7590  
Clarence E. Eriksen  
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Suite 2100  
112 E. Pecan Street  
San Antonio, TX 78205-1521

EXAMINER
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MACNEILL, ELIZABETH

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/805,974

Applicant(s)

O'HEERON, PETER T.

Examiner

Elizabeth R. MacNeill

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/31/04; 4/28/04;  
6/2/04; ~~6/23/04~~.

*Em*

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the seal comprising a plurality of corrugations with interior diameters decreasing and the exterior diameters remaining constant must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Haber et al (US 5,391,153)

Haber teaches an hourglass shaped trocar seal (144) which is made of silicone and has a passage diameter of about two to thirteen millimeters and corrugations (154). (Col 3 lines 15-30). Fig 5.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6,123,689; 5,492,304; 5,197,955; 6,702,787; 2002/0128604.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

*Elizetti,  
MacNeil  
3/29/07*

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

*Kevin C. Sirmons*

## A circular black ink stamp from the Office of Intellectual Property (OIP). The text "OIP" is at the top, "JUN 02 2004" is in the center, and "PATENT &amp; TRADEMARK OFFICE" is at the bottom.

U.S. Dept. of Commerce  
Patent & Trademark Office

122182.0025.000

10/805,974

(Use several sheets if necessary)

(37 CFR 1.98(b))

Peter T. O’Heeron, et al

March 22, 2004

UNKNOWN

[illegible][illegible]

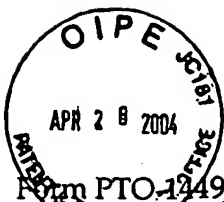
EXAMINER	/Elizabeth Macneill/	DATE CONSIDERED	03/19/2007
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~~/Elizabeth Macneill/~~

~~03/19/2007~~

Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

3630513v1



Form PTO-1449 (Modified)

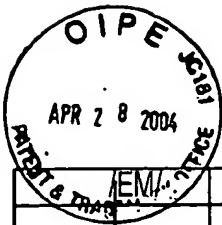
FORM PTO-1449 (Modified)	U.S. Dept. of Commerce Patent & Trademark Office	ATTY DKT. NO.:  122182.0025.000	SER. NO.:  10/805,974
<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use several sheets if necessary)			
(37 CFR 1.98(b))			

APPLICANT:  Peter T. O'Heeron, et al	
FILING DATE: March 22, 2004	GROUP: UNKNOWN

**U.S. PATENT DOCUMENTS**

Examiner Initial	Patent Number	Issue Date	Patentee	Class	Sub- Class	Filing Date If Appropriate
/EM/	4,535,773	08/20/1985	Yoon	604	51	03/26/1982
	4,601,710	07/22/1986	Moll	604	165	08/06/1984
	B1 4,601,710	05/05/1998	Moll	604	165	08/06/1984
	4,654,030	03/31/1987	Moll, et al	604	165	02/24/1986
	4,902,280	02/20/1990	Lander	604	165	07/14/1989
	4,931,042	06/05/1990	Holmes, et al	604	164	10/26/1987
	5,030,206	07/09/1991	Lander	604	164	02/16/1990
	5,104,382	04/14/1992	Brinkerhoff, et al	604	165	01/15/1991
	5,114,407	05/19/1992	Burbank	604	164	08/30/1990
	5,209,737	05/11/1993	Ritchart, et al	604	167	05/11/1993
	5,256,147	10/26/1993	Vidal, et al	604	158	06/17/1992
	5,275,583	01/04/1994	Crainich	604	264	10/05/1992
	5,308,336	05/03/1994	Hart, et al	604	167	09/28/1982
	5,312,354	05/17/1994	Allen, et al	604	157	11/04/1991
	5,350,393	09/27/1994	Yoon	606	185	01/06/1992
	5,385,553	01/31/1995	Hart, et al	604	167	06/15/1993
	5,405,328	04/11/1995	Vidal, et al	604	158	09/17/1993
	5,411,515	05/02/1995	Haber, et al	606	184	07/29/1993
	5,431,635	07/11/1995	Yoon	604	165	06/24/1993
	5,538,509	07/23/1996	Dunlap, et al	604	264	01/31/1994
	5,549,564	08/27/1996	Yoon	604	165	06/07/1993
	5,551,947	09/03/1996	Kaali	604	264	11/17/1993
	5,554,137	09/10/1996	Young, et al	604	264	10/08/1993
	5,554,167	09/10/1996	Young, et al	606	184	07/26/1994
	5,569,289	10/29/1996	Yoon	606	185	10/04/1994
	5,584,850	12/17/1996	Hart, et al	606	185	05/25/1995
	5,591,190	01/07/1997	Yoon	606	185	09/26/1994





	5,607,440	03/04/1997	Danks, et al	606	185	06/02/1995
	5,609,604	03/11/1997	Schwemberger, et al	606	185	10/16/1995
	5,645,076	07/08/1997	Yoon	128	754	03/15/1995
	5,645,556	07/08/1997	Yoon	606	185	07/22/1994
	5,669,885	09/23/1997	Smith	606	184	05/14/1996
	5,674,184	10/07/1997	Hassler, Jr.	600	176	05/26/1995
	5,674,237	10/07/1997	Ott	606	185	03/06/1996
	5,685,820	11/11/1997	Riek, et al	600	114	01/26/1994
	5,697,947	12/16/1997	Wolf, et al	606	185	06/14/1996
	5,720,761	02/24/1998	Kaali	606	185	07/29/1994
	5,752,938	05/19/1998	Flatland, et al	604	167	06/07/1995
	5,797,944	08/25/1998	Nobles, et al	606	185	09/12/1997
	5,810,863	09/22/1998	Wolf, et al	606	185	06/06/1996

**FOREIGN PATENT OR PUBLISHED FOREIGN PATENT APPLICATION**

Document Number	Publ. Date	Country or Patent Office	Class	Sub-Class	Translation Yes No

**OTHER DOCUMENTS (Including Author, Title, Date, Relevant Pages, Place of Publication)**

I.E.M.	CORE Dynamics, Inc. "Disposable Trocar and Reusable Automatic Valve Cannula System" Entrée™ 1991
I.E.M.	Marlow Surgical Technologies, Inc. "Hasson SAC™ Stable Access Cannula™ offers maximum stability for advanced laparoscopic procedures"

EXAMINER	/Elizabeth Macneill/	DATE CONSIDERED	03/19/2007
EXAMINER:	Initial citation considered. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.		

\*It is believed these references are potentially relevant but applicant has not determined whether or not these two online printouts represent prior art as they were a result of search performed after applicant's date of invention.

